

3-16-05

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Deposited with the United States Postal Service on March 11, 2005 with sufficient postage as Express Mail No. 398 731 699
US in an envelope addressed to Office of Petition, Commissioner for Patents, P.O. box 1450, Alexandria, VA 22313

[Signature]
Ruth Montalvo

In the event that this paper is late filed and a necessary Petition for an Extension of Time is not concurrently filed herewith, please consider this as a Petition for the requisite extension of time, and to the extent not tendered by check attached hereto, authorization to charge the extension fee, or any other fee required in connection with this paper, to Deposit Account No. 50-1529.

GK-OEH-119/500814.20020

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Peter CZERNEY, et al.
Patent No.: 6,750,346 B2
Issue Date: June 15, 2004 Customer No.: 026418
For: STABLE NEAR-INFRARED (NIR) MARKER DYES BASED ON
BENZOPYRILIUM-POLYMETHINES

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attention: Office of Petitions

**PETITION TO THE COMMISSIONER
TO CORRECT ASSIGNEE UNDER 37 CFR 1.183**

In response to the denied request for Certification of Correction dated November 1, 2004 (copy attached). Applicants hereby request that the requirements of 37 CFR 3.81 be waived to correct Applicants incorrect assignment data. The failure to include the correct assignee name on the PTOL-85b was inadvertent. Accordingly, Applicants hereby petition the Commissioner to issue a Certificate of Correction to change the assignee from Carl Zeiss Jena GmbH to Dyomics GmbH since the assignee on the PTOL-85b submitted April 30, 2004 was incorrect. The person completing the PTOL-85b mistakenly typed the wrong name of the assignee.

A copy of the recorded assignment and Notice of Recordation are attached for your reference.

03/16/2005 EABUBAK1 00000093 6750346

01 FC:1464

130.00 OP

Applicant(s): Peter CZERNEY, et al.

Serial No.: 10/031,741

Page 2

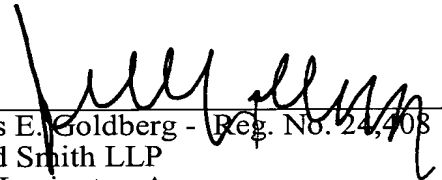
Upon granting of this Petition, the undersigned respectfully request that the file be forwarded to the Certificates of Correction Branch for the issuance of the Certificate of Correction as enclosed for PTO-1050.

Enclosed is the Petition fee 37 CFR 117(h) as required. The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to Deposit Account No.: 50-1529.

Accordingly, favorable consideration of this Petition is earnestly solicited.

Respectfully submitted,



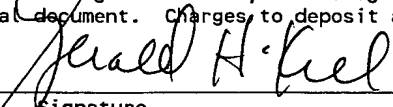
March 11, 2005
Tel. No. (212) 521-5403



Jules E. Goldberg - Reg. No. 24,408
Reed Smith LLP
599 Lexington Avenue
New York, NY 10022

A/ 581-40

10/051/41
JC Rec'd PCT/PTO 22 JAN 2002

To the Hon. Commissioner of Patents . Trademarksq Please record the attached original or copy thereof Docket No. GK-OEH-119 / 500814.20020		Attach bar code label here: 1/22/02	
SUBMISSION TYPE: <input checked="" type="checkbox"/> [X] New <input type="checkbox"/> [] Resubmission (Non-Recordation) Document ID # _____ <input type="checkbox"/> [] Correction of PTO Error / Reel # _____ / Frame # _____ <input type="checkbox"/> [] Corrective Document / Reel # _____ / Frame # _____		Nature of Conveyance: <input checked="" type="checkbox"/> [X] Assignment <input type="checkbox"/> [] Change of Name <input type="checkbox"/> [] Merger <input type="checkbox"/> [] Security Agreement <input type="checkbox"/> [] Other: EXECUTION DATE: January 15, 2002, respectively	
Name of conveying Party(ies): Peter CZERNEY Wilhelm FRANK Frank LEHMANN Bernd SCHWEDER Matthias WENZEL		Execution Date (M / D / Y): January 15, 2002 January 15, 2002 January 15, 2002 January 15, 2002 January 15, 2002	
04-12-2002  102054204			
Name of receiving Party(ies): Dyomics GmbH			
Address of receiving Party(ies): Winzerlaerstrasse 2a, D-07745 Jena, GERMANY			
If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative designation is attached: <input type="checkbox"/> YES <input type="checkbox"/> NO (DESIGNATIONS MUST BE A SEPARATE DOCUMENT FROM ASSIGNMENT)			
Correspondence and/or Domestic Representative Name, Address and Phone No.: Gerald H. Kiel, Esq., Reed Smith LLP, 375 Park Avenue, New York, NY 10152 [Tel. No. (212)521-5400]			
DO NOT USE THIS SPACE 10/031741			
Pages Enter the total number of pages of the attached conveyance document including any attachments: [3]			
Application number(s) or Patent number(s): Enter either the patent Application Number or the Patent Number (DO NOT ENTER BOTH NUMBERS for the same property) A) Application number(s): B) Patent number(s):			
If this document is being filed together with a New Application, enter the date the patent application was signed by the first named executing inventor: (M/D/Y) January 15, 2002			
Patent Cooperation Treaty (PCT) PCT/DE01/01946			
Enter PCT application number <u>only</u> if a U.S. Application Number has not been assigned			
Number of Properties Enter the total number of properties involved: [1]			
Fee Amount Fee Amount for Properties Listed (37 CFR 3.41): \$ 40.00			
Method of payment: <input checked="" type="checkbox"/> [X] Enclosed(with filing fee of \$ 930.00) <input type="checkbox"/> [] Deposit Account (The Commissioner is hereby authorized to charge the deposit account any additional fees required or to credit any overpayment to Deposit Account No: 50-1529.)			
Deposit Account Enter for payment by deposit account or if additional fees can be charge to the account. Deposit Account Number: 50-1529 Authorization to charge additional fees <input type="checkbox"/> [] Yes <input type="checkbox"/> [] No			
Statement and Signature To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.			
Gerald H. Kiel Reg. No.: 25,116 Name of Person Signing		Signature  Date: January 21, 2002	
EXPRESS MAIL No.: EL 915 668 192 US Deposited: January 21, 2002 I hereby certify that this correspondence is being deposited with the United States Postal Service Express mail under 37 CFR 1.10 on the date indicated above and is addressed to: BOX PCT, Assistant Commissioner for Patents, Washington, DC 20231.			
/ Ruth Montalvo			

01/31/2002 HNGUYEN 00000188 10031741

02 FC:561

40.00 OP

File No.: GK-OEH-119/500814.20020

ASSIGNMENT - PATENT APPLICATION

UNITED STATES OF AMERICA

Whereas, I/We Peter Czemey, Wilhelm Frank, Frank Lehmann, Bernd Schweder and Matthias Wenzel of Bodelschwinghstrasse 137, 99425 Weimar, Germany; Grietgasse 6, 07743 Jena, Germany; Camsdorfer Strasse 22, 07749 Jena, Germany; Leipziger Strasse 67, 07743 Jena, Germany; and Braendstroemstrasse 4, 07749 Jena, Germany, respectively (hereinafter "Assignor"), have invented certain new and useful improvements in STABLE NEAR-INFRARED (NIR) MARKER DYES BASED ON BENZOPYRILIUM-POLYMETHINES which application for Letters Patent in the United States of America X is about to be filed; _____ has been filed.

And Whereas, DYOMICS GmbH of Winzerlaer Strasse 2a, 07745 Jena, Germany, (herein "Assignee") is/are desirous of acquiring an interest therein and in the Letters Patent to be obtained therefor:

Now, Therefore, be it known by all whom it may concern, that for good and valuable consideration (the sufficiency of which is hereby acknowledged) the Assignor has assigned, transferred and set over, and by these presents does assign, transfer and set over unto the said Assignee for the territory of the United States of America, the full and exclusive right, title and interest in and to the said invention, as fully set forth and described in the specification.

A. prepared and executed on even date(s) herewith

B. filed in the U.S. Patent and Trademark Office under Serial No. _____ filed on _____ including any division, continuation, substitute or renewal application thereof; said invention, application and Letters Patent to be held and enjoyed by the said Assignee to the full end of the term for which said Letters Patent is granted, as fully and entirely as the same would have been held by the Assignor had this assignment and transfer not been made.

Assignor hereby authorizes and requests the Commissioner of Patents and Trademarks to issue any and all such Letters Patent for said invention to said Assignee.

In testimony whereof, the Assignor has hereunto set his hand this
15 day of January 2002.

WITNESS:

A. Fritzsche
Antje FRITZSCHE

A. Fritzsche
Antje FRITZSCHE

A. Fritzsche
Antje FRITZSCHE

A. Fritzsche
Antje FRITZSCHE

A. Fritzsche
Antje FRITZSCHE

INVENTOR(S):

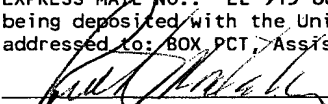
Peter Czerney
Peter CZERNEY

Wilhelm Frank
Wilhelm FRANK

Frank Lehmann
Frank LEHMANN

Bernd Schweder
Bernd SCHWEDER

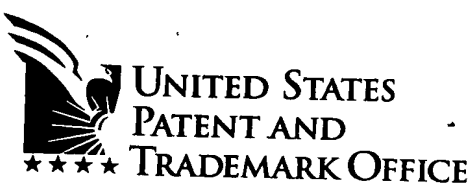
Matthias Wenzel
Matthias WENZEL

To the Hon. Commissioner of Patents & Trademarks Please record the attached original or copy thereof Docket No. GK-OEH-119 / 500814.20020	Attach. label code label here: <div style="font-size: 2em; font-family: cursive;">1/22/02</div>
SUBMISSION TYPE: <input checked="" type="checkbox"/> New <input type="checkbox"/> Resubmission (Non-Recordation) Document ID # _____ <input type="checkbox"/> Correction of PTO Error / Reel # _____ / Frame # _____ <input type="checkbox"/> Corrective Document / Reel # _____ / Frame # _____	Nature of Conveyance: <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Change of Name <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Other: EXECUTION DATE: January 15, 2002, respectively
Name of conveying Party(ies): Peter CZERNEY Wilhelm FRANK Frank LEHMANN Bernd SCHWEDER Matthias WENZEL	Execution Date (M / D / Y): January 15, 2002 January 15, 2002 January 15, 2002 January 15, 2002 January 15, 2002
<div style="display: flex; justify-content: space-around; align-items: center;"> <div> 04-12-2002  102054204 </div> </div>	
Name of receiving Party(ies): Dyomics GmbH Address of receiving Party(ies): Winzerlaerstrasse 2a, D-07745 Jena, GERMANY If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative designation is attached: <input type="checkbox"/> YES <input type="checkbox"/> NO (DESIGNATIONS MUST BE A SEPARATE DOCUMENT FROM ASSIGNMENT)	
Correspondence and/or Domestic Representative Name, Address and Phone No.: Gerald H. Kiel, Esq., Reed Smith LLP, 375 Park Avenue, New York, NY 10152 [Tel. No. (212)521-5400]	
DO NOT USE THIS SPACE	
10/03/1741	
Pages Enter the total number of pages of the attached conveyance document including any attachments: [3]	
Application number(s) or Patent number(s): Enter either the patent Application Number or the Patent Number (DO NOT ENTER BOTH NUMBERS for the same property) A) Application number(s): B) Patent number(s):	
If this document is being filed together with a New Application, enter the date the patent application was signed by the first named executing inventor: (M/D/Y) January 15, 2002	
Patent Cooperation Treaty (PCT) PCT/DE01/01946 Enter PCT application number <u>only if</u> a U.S. Application Number has not been assigned	
Number of Properties Enter the total number of properties involved: [1]	
Fee Amount Fee Amount for Properties Listed (37 CFR 3.41): \$ 40.00	
Method of payment: <input checked="" type="checkbox"/> Enclosed (with filing fee of \$ 930.00) <input type="checkbox"/> Deposit Account (The Commissioner is hereby authorized to charge the deposit account any additional fees required or to credit any overpayment to Deposit Account No: 50-1529.)	
Deposit Account Enter for payment by deposit account or if additional fees can be charge to the account. Deposit Account Number: <u>50-1529</u> Authorization to charge additional fees <input type="checkbox"/> Yes <input type="checkbox"/> No	
Statement and Signature To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.	
<div style="display: flex; justify-content: space-between;"> <div> Gerald H. Kiel Reg. No.: 25,116 Name of Person Signing </div> <div style="text-align: center;">  Signature </div> <div style="text-align: right;"> Date: January 21, 2002 </div> </div>	
EXPRESS MAIL No.: EL 915 668 192 US Deposited: January 21, 2002 I hereby certify that this correspondence is being deposited with the United States Postal Service Express mail under 37 CFR 1.10 on the date indicated above and is addressed to: BOX PCT, Assistant Commissioner for Patents, Washington, DC 20231.	
<div style="display: flex; justify-content: space-between;"> <div>  Ruth Montalvo </div> </div>	

01/31/2002 MNGUYEN 00000188 10031741

02 FC:581

40.00 OP



JUNE 06, 2002

PTAS

REED SMITH LLP
GERALD H. KIEL, ESQ.
375 PARK AVENUE
NEW YORK, NY 10152

Commissioner for Trademark
Arlington, VA 22202-35
www.uspto.gov



102054204A

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 01/22/2002

REEL/FRAME: 012769/0643
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

CZERNEY, PETER

DOC DATE: 01/15/2002

ASSIGNOR:

FRANK, WILHELM

DOC DATE: 01/15/2002

ASSIGNOR:

LEHMANN, FRANK

DOC DATE: 01/15/2002

ASSIGNOR:

SCHWEDER, BERND

DOC DATE: 01/15/2002

ASSIGNOR:

WENZEL, MATTHIAS

DOC DATE: 01/15/2002

ASSIGNEE:

DYOMICS GMBH
WINZERLAERSTRASSE 2A
D-07745 JENA, FED REP GERMANY

012769/0643 PAGE 2

SERIAL NUMBER: 10031741
PATENT NUMBER:

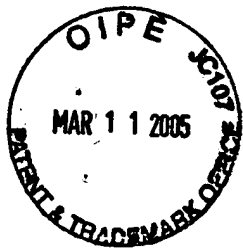
FILING DATE: 01/22/2002
ISSUE DATE:

MARCUS KIRK, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS



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UNITED STATES PATENT AND TRADEMARK OFFICE



COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

November 1, 2004

Jules E. Goldberg
REED SMITH, LLP
599 Lexington Avenue
New York, NY 10022-7650

Patent No.: 6750346 B2
Inventor: Peter Czerney, et al.
Issued: June 15, 2004
Title: STABLE NEAR-INFRARED (NIR) MARKER DYES BASED ON BENZOPYRILIUM-POLYMETHINES

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, is based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a petition, under 37 CFR 1.183, requesting the requirements of 37 CFR 3.81 to be waived, is required to correct applicant's error providing incorrect or erroneous assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp. 1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A petition to correct the Assignee under 37 CFR 1.183 should include:

- A. the petition fee set forth in 37 CFR 1.117(h) (currently \$130);
- B. a request that 37 CFR 3.81(a) be waived to permit the correct name of the assignee to be provided;

DOCKET

FILED
DUE Jan. 1, 2005
Petition to Correct Assignee

- C. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- D. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Petition, Applicant(s) may request that the file is forwarded to Certificates of Correction Branch, for issuance of a Certificates of Correction, if the Petition is granted.

Any petition under 37 CFR 1.183 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
 Mail Stop: Petitions
 Alexandria, VA 22313

By Fax: (703) 308-6916
 Attn.: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A certificate of correction will be issued for the remaining errors mentioned in your request.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-8309** or (703) 305-1882

vt